

PART 402—PROJECT-BASED SECTION 8 CONTRACT RENEWAL WITHOUT RESTRUCTURING (UNDER SECTION 524(a) OF MAHRA)

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§ 402.1 What is the purpose of part 402?

This part sets out the terms and conditions under which HUD will renew project-based section 8 contracts under the authority provided in section 524(a)(1) or (2) of MAHRA. This part permits renewal notwithstanding part 24 of this title, but subject to section 516 of MAHRA (see § 402.7).

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§ 402.2 Definitions.

The definitions in § 401.2 of this chapter apply to this part.

§ 402.3 Contract provisions.

The provisions of chapter VIII of this title will apply only to the extent, if any, provided in the contract. Part 983 of this title will not apply.

§ 402.4 Contract renewals under section 524(a)(1) of MAHRA.

(a) *Initial renewal.* (1) HUD may renew any expiring section 8 project-based assistance contract at initial rents that do not exceed comparable market rents.

(2)(i) If HUD or a Participating Administrative Entity (PAE) determines that renewal of an expiring contract

under this section for an eligible project would be sufficient to maintain both adequate debt service coverage on the HUD-insured or HUD-held mortgage and necessary replacement reserves to ensure the long-term physical integrity of the project, taking into account any comments received under § 401.502(c) of this chapter, HUD will renew the contract under this section without developing a Restructuring Plan, subject to § 402.7.

(ii) If HUD or the PAE determines that paragraph (a)(2)(i) of this section does not apply for an eligible project, HUD or the PAE may require a Restructuring Plan before the owner's request for renewal of an expiring section 8 contract will be given further consideration. If HUD or the PAE determines that the project's continued operation without a Restructuring Plan is not feasible and the owner does not cooperate in the development of an acceptable Restructuring Plan, HUD will pursue whatever administrative actions it considers necessary.

(b) [Reserved]

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§ 402.5 Contract renewals under section 524(a)(2) of MAHRA.

(a) *Renewal for exception project at owner's request.* HUD will renew project-based assistance under this section instead of § 402.4 if requested by the owner of a project described in paragraph (b) of this section. The term of the initial and subsequent contract renewals under this section will be determined by the appropriate HUD official.

(b) *Exception projects included.* This section applies to:

(1) A project described in section 524(a)(2)(A) through (D) of MAHRA; and

(2) A project described in section 524(a)(2)(E) of MAHRA.

(c) *Initial rent levels for exception projects.* If the owner of such a project requests renewal of project-based assistance under this section, HUD will initially renew the expiring contract at the lesser of:

(1) Existing rents adjusted by an operating cost adjustment factor established by HUD (OCAF);

(2) A budget-based rent determined in accordance with § 514(g)(3)(a) through